

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
V.) No. 2:08-CR-17
)
ALAN GOINS)

REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b) and with the written consent of defendant and the attorneys, the undersigned conducted a plea hearing in this case on July 3, 2008. A plea agreement dated May 22, 2008, was filed as Document 68.

At the hearing, and in conformance with the plea agreement, defendant moved to withdraw his not guilty plea to Counts One and Twelve and enter a plea of guilty (1) to Count One of knowingly conspiring and agreeing with others to distribute and to possess with the intent to distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. § 846; and (2) to Count Twelve of the indictment of possessing a firearm and ammunition in furtherance of the drug trafficking crime charged in Count One of the indictment in violation of 18 U.S.C. § 924(c)(1)(A).

On the basis of the record made at the hearing, I find the defendant is fully capable and competent to enter an informed plea; his plea is made knowingly and with full understanding of each of the rights waived by him; his plea is made voluntarily and free from

any force, threats, or promises, apart from the promises in the plea agreement; the defendant understands the nature of the charges and penalties provided by law; his plea has a sufficient basis in fact; and defendant understands the decision on whether to accept the plea agreement will be deferred until the sentencing hearing before Senior District Judge Jordan.

Therefore, I **RECOMMEND** (1) that defendant's motion to withdraw his not guilty plea to Counts One and Twelve be granted; (2) that defendant's plea of guilty to Count One of knowingly conspiring and agreeing with others to distribute and to possess with the intent to distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. § 846, be accepted; and (3) that his plea of guilty to Count Twelve of the indictment of possessing a firearm and ammunition in furtherance of the drug trafficking crime charged in Count One of the indictment in violation of 18 U.S.C. § 924(c)(1)(A) be accepted.

I further **RECOMMEND** defendant remain in custody until sentencing in this matter. Defendant was told that acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge.

Sentencing hearings for other defendants in this case are currently scheduled for September 25, 2008. The attorneys requested that Mr. Goins' sentencing be scheduled for that same date, and Probation Officer Deaderick agreed that it was at least possible that everything could be ready by that date. Therefore, it is recommended that defendant's sentencing hearing be set for September 25, 2008, with the understanding that any party,

including the United States Probation Officer, may request that it be reset to a later date.

Respectfully submitted:

s/ Dennis H. Inman
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to *de novo* review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten days after the plea hearing. Failure to file objections within ten days constitutes a waiver of any further right to challenge the plea of guilty in this matter. See 28 U.S.C. §636(b).